

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

OTIS MICHAEL BRIDGEFORTH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. Action No. 15-189-GMS
	)	
DIANE JONES, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM**

The plaintiff, Otis Michael Bridgeforth ("Bridgeforth"), filed this action alleging violations of federal law when the defendant Budget Rental Car ("Budget") refused to provide him with a rental car. (D.I. 2.) He appears *pro se* and was granted permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (D.I. 5.) The court proceeds to review and screen the complaint pursuant to 28 U.S.C. § 1915(e)(2).

**I. BACKGROUND**

Bridgeforth alleges that he made a reservation for a car rental with Budget. When he arrived at Budget's office<sup>1</sup> on February 27, 2015, Jones would not rent him a vehicle due to Bridgeforth's "soft credit check." The complaint sets forth Bridgeforth's financial history.<sup>2</sup> Bridgeforth alleges that he "was not supposed to have been denied service nor placed on the do not rent list." Bridgeforth alleges that he was denied services based upon his ethnicity, age, race, color, and

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<sup>1</sup>Apparently Avis Car Rental ("Avis") and Budget share office space and Bridgeforth was initially waited on by the defendant Diane Jones ("Jones"), who was at the Avis customer service desk because the defendant John Doe ("Doe") had left the customer service area. Doe did not ask Bridgeforth about his reservation and Bridgeforth did not know that Jones did not work for Budget.

<sup>2</sup>Bridgeforth states that he has "a job at the Cryo Sperm Bank to attend and it is worth a lot of money."

cultural background. He seeks compensatory damages and that the defendant Diane Jones' and John Doe's employment be terminated.

## II. STANDARD OF REVIEW

A federal court may properly dismiss an action *sua sponte* under the screening provisions of 28 U.S.C. § 1915(e)(2)(B) if “the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.” *Ball v. Famiglio*, 726 F.3d 448, 452 (3d Cir. 2013); *see also* 28 U.S.C. § 1915(e)(2). The court must accept all factual allegations in a complaint as true and take them in the light most favorable to a *pro se* plaintiff. *Phillips v. County of Allegheny*, 515 F.3d 224, 229 (3d Cir. 2008); *Erickson v. Pardus*, 551 U.S. 89, 93 (2007). Because Bridgeforth proceeds *pro se*, his pleading is liberally construed and his complaint, “however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. at 94 (citations omitted).

An action is frivolous if it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Under 28 U.S.C. § 1915(e)(2)(B)(i), a court may dismiss a complaint as frivolous if it is “based on an indisputably meritless legal theory” or a “clearly baseless” or “fantastic or delusional” factual scenario. *Neitzke*, 490 at 327-28; *Wilson v. Rackmill*, 878 F.2d 772, 774 (3d Cir. 1989); *see, e.g., Deutsch v. United States*, 67 F.3d 1080, 1091-92 (3d Cir. 1995) (holding frivolous a suit alleging that prison officials took an inmate's pen and refused to give it back).

The legal standard for dismissing a complaint for failure to state a claim pursuant to § 1915(e)(2)(B)(ii) is identical to the legal standard used when ruling on 12(b)(6) motions. *Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999) (applying Fed. R. Civ. P. 12(b)(6) standard to dismissal for failure to state a claim under § 1915(e)(2)(B)). However, before dismissing

a complaint or claims for failure to state a claim upon which relief may be granted pursuant to the screening provisions of 28 U.S.C. § 1915, the court must grant Bridgeforth leave to amend his complaint unless amendment would be inequitable or futile. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002).

A well-pleaded complaint must contain more than mere labels and conclusions. *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). The assumption of truth is inapplicable to legal conclusions or to “[t]hreadbare recitals of the elements of a cause of action supported by mere conclusory statements.” *Ashcroft*, 556 U.S. at 678. When determining whether dismissal is appropriate, the court must take three steps: “(1) identify[] the elements of the claim, (2) review[] the complaint to strike conclusory allegations, and then (3) look[] at the well-pleaded components of the complaint and evaluat[e] whether all of the elements identified in part one of the inquiry are sufficiently alleged.” *Malleus v. George*, 641 F.3d 560, 563 (3d Cir. 2011). Elements are sufficiently alleged when the facts in the complaint “show” that the plaintiff is entitled to relief. *Iqbal*, 556 U.S. at 679 (quoting Fed. R. Civ. P. 8(a)(2)). Deciding whether a claim is plausible will be a “context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

### III. DISCUSSION

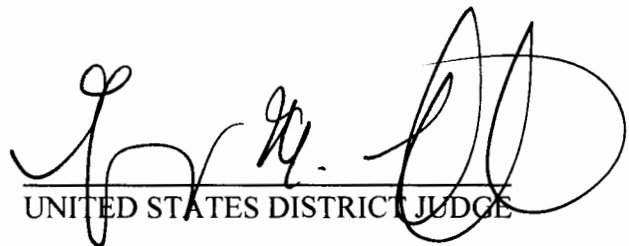
The complaint indicates that this is a “federal question”, and the civil cover sheet refers to 42 U.S.C. § 1983. When bringing a § 1983 claim, a plaintiff must allege that some person has deprived him of a federal right, and that the person who caused the deprivation acted under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). None of the named defendants are state actors. Therefore, any § 1983 claim fails as a matter of law and will be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

The complaint states that “statutes 438 banking/480 consumer credit review and 850 commodities/exchange/service offered are all violated.” No statutes are cited and the court cannot discern under which federal statutes, if any, Bridgeforth might wish to proceed. Accordingly, the complaint will be dismissed for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). However, since it appears plausible that Bridgeforth may be able to articulate a claim against the defendants (or name alternative defendants), he will be given an opportunity to amend his pleading. *See O’Dell v. United States Gov’t*, 256 F. App’x 444 (3d Cir. 2007) (not published) (leave to amend is proper where the plaintiff’s claims do not appear “patently meritless and beyond all hope of redemption”).

#### IV. CONCLUSION

For the above reasons, the court will dismiss the complaint as frivolous and for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). Bridgeforth will be given leave to amend.

An appropriate order will be entered.

  
UNITED STATES DISTRICT JUDGE

July 17, 2015  
Wilmington, Delaware